

02-27-08 03:00pm From: Kirby Noonan Lance & Hoge LLP 6192314360 T-579 P.009/008 F-888

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11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**
14

15 JAMES M. KINDER,
16 Plaintiff,

17 vs.

18 BANKFIRST, and DOES 1 through 100,
19 inclusive,

20 Defendants.

LEAD CASE NO. 07cv2132-DMS-AJB
[CASE NO. 07cv0877-DMS (AJB)]

STIPULATION AND [PROPOSED]
ORDER STAYING DISCOVERY
PENDING CONSOLIDATED CASE
MANAGEMENT CONFERENCE

CRTRM: 10
JUDGE: Dana M. Sabraw

21 This Stipulation and [Proposed] Order is made with respect to the following facts and
22 circumstances:

23 A. Plaintiff James A. Kinder ("Kinder") filed a complaint against Defendant Bankfirst,
24 Inc. ("Bankfirst") in San Diego County Superior Court on or about March 5, 2007.

25 B. Bankfirst removed Kinder's complaint to Federal Court on or about May 15, 2007
26 based on diversity of citizenship.

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02-27-08

03:01pm

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T-579 P.004/006 F-898

1 C. On August 10, 2007, the Court issued a Scheduling Order in this matter regulating
2 discovery and other pre-trial proceedings. Pursuant to that Order, all discovery, except expert
3 discovery, shall be completed on or before March 3, 2008.

4 D. On February 4, 2008, pursuant to a motion by Nationwide Recovery Systems,
5 LTD, the Court (the Honorable Dana M. Sabraw) consolidated the following actions:

- 6 1. *Kinder v. Bankfirst*, Case No. 07-cv-877DMS (AJB) [this
7 case];
- 8 2. *James M. Kinder v. Asset Acceptance, LLC*,
9 Case No. 07-cv-2084 DMS (AJB);
- 10 3. *James M. Kinder v. Astra Business Services, Inc.*,
11 Case No. 07-cv-2091 DMS (AJB);
- 12 4. *James M. Kinder v. Nationwide Recovery Systems, LTD*,
13 Case No. 07-cv-2132 DMS (AJB);
- 14 5. *James M. Kinder v. Discover Card Services, Inc.*,
15 Case No. 07-cv-2138 DMS (AJB);
- 16 6. *James M. Kinder v. Enhanced Recovery Corporation*,
17 Case No. 07-cv-2152 DMS (AJB); and
- 18 7. *James M. Kinder v. Harrah's Entertainment, Inc.*,
19 Case No. 07-cv-2226 DMS (AJB).

20 E. Shortly thereafter, on February 12, 2008, the Court (the Honorable Anthony J.
21 Battaglia) entered an Ordered Setting Case Management Conference for the Consolidated Actions.
22 Citing Judge Sabraw's Order of Consolidation, Judge Battaglia's order set a Case Management
23 Conference for all the consolidated cases on April 10, 2008 at 9:00 a.m. and vacated all previously
24 scheduled Case Management Conference dates.

25 F. The instant action, *Kinder v. Bankfirst*, is the only case where dates have been set
26 and discovery is progressing.

27 G. The Parties agree that discovery in this matter should be stayed pending the
28 consolidated Case Management Conference in which it is anticipated that uniform dates will be set
for all of the Consolidated Actions.

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1 H. The Parties further agree that discovery requests currently outstanding, including
2 document subpoenas to third parties, will not be required to be reserved after new dates are set at
3 the consolidated Case Management Conference. The responding party(ies) will be notified of the
4 stay order and that a new date will be set for compliance with the outstanding discovery requests.

5 I. It is the intention of the Parties that when the stay order expires, unless otherwise
6 ordered by the Court, each Party will be in the same position that it was prior to the
7 commencement of the stay, such that any deadline that expired prior to imposition of the stay shall
8 remain expired. To the extent that any deadline has not expired, only the remaining period that
9 has not expired will be left following the expiration of the stay. For example, if a discovery cutoff
10 date has four days left as of February 28, 2008, upon the expiration of the stay, only four days will
11 remain prior to such deadline expiring.

12 NOW, THEREFORE, based on the foregoing facts and circumstances, the parties hereby
13 stipulate as follows:

14 1. Discovery in this matter shall be stayed pending the Court's further directions at the
15 Consolidated Case Management Conference on April 10, 2008; and

16 2. Recipients of outstanding discovery requests, including third party subpoenas, will
17 be notified of the stay order and that a new date for compliance with the discovery requests will be
18 provided after the Consolidated Case Management Conference without the requirement of
19 reserving said requests.

20 3. Unless otherwise ordered by the Court, upon expiration of this stay order, each
21 Party will be in the same position that it was prior to the commencement of the stay, such that any
22 deadline that expired prior to imposition of the stay shall remain expired and to the extent that any
23 deadline has not expired only the remaining period that has not expired will be left following the
24 expiration of the stay.

25 4. Unless otherwise ordered by the Court, nothing in this stay order shall effect or
26 apply to discovery or law and motion deadlines, or any other deadlines, currently in place.

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02-27-08 03:01pm From: Kirby Noonan Lance & Hoge LLP

6192314360

T-579 P.008/008 F-699

IT IS SO STIPULATED.DATED: 2/27/08

LAW OFFICES OF CHAD AUSTIN

By: Chad Austin

Chad Austin

Attorneys for Plaintiff James Kinder

DATED: _____

KIRBY NOONAN LANCE & HOGE LLP

By: _____

Jonathan A. Boynton

Lauren E. Butz

Attorneys for Defendant BANKFIRST, INC.

IT IS SO ORDERED.

DATED: _____

Honorable Anthony J. Battaglia
U.S. Magistrate Judge

1 **IT IS SO STIPULATED.**

2 DATED: February 27, 2008

LAW OFFICES OF CHAD AUSTIN

3
4 By: _____

Chad Austin

Email: *chadaustin79@hotmail.com*

Attorneys for Plaintiff James Kinder

5
6 DATED: February 28, 2008

KIRBY NOONAN LANCE & HOGE LLP

7
8 By: _____

Jonathan A. Boynton

Email: *jboynton@knlh.com*

Lauren E. Butz

Attorneys for Defendant BANKFIRST, INC.

9
10
11 **IT IS SO ORDERED.**

12
13 DATED: _____

Honorable Anthony J. Battaglia

U.S. Magistrate Judge

PROOF OF SERVICE

James M. Kinder v. Bankfirst
U.S. District Court Case No. 07CV2132DMS (AJB)

I, the undersigned, declare: That I am, and was at the time of service of the papers herein referred to, over the age of eighteen years, and not a party to the action; and I am employed in the County of San Diego, California. My business address is 600 West Broadway, Suite 1100, San Diego, California 92101-3387.

On February 28, 2008, at San Diego, California, I served the following document(s) described as **STIPULATION AND [PROPOSED] ORDER STAYING DISCOVERY PENDING CONSOLIDATED CASE MANAGEMENT CONFERENCE** on the parties in said action as follows:

SEE ATTACHED LIST

☒ **ELECTRONIC TRANSMISSION:** I filed the foregoing document with the Clerk of Court for the , using the Electronic Case Filing ("ECF") system of the Court. The attorney listed above has consented to receive service by electronic means and is registered with the Court's ECF system and was served a "Notice of Electronic Filing" sent by ECF system.

☒ **FEDERAL COURT:** I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 28, 2008, at San Diego, California.

Virginia Soto Perez



SERVICE LIST

James M. Kinder v. Bankfirst

U.S. District Court Case No. 07CV2132DMS (AJB)

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